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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,680	10/17/2003	Chih-Yuan Chen	MTKP0089USA	2679

27765 7590 02/12/2007  
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION  
P.O. BOX 506  
MERRIFIELD, VA 22116

EXAMINER
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LAMB, CHRISTOPHER RAY

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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02/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/605,680

Applicant(s)

CHEN, CHIH-YUAN

Examiner

Christopher R. Lamb

Art Unit

2627

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 31 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

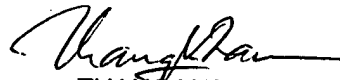
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-21.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note below.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

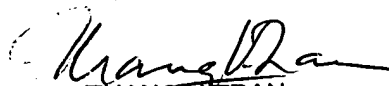
  
THANG V. TRAN  
PRIMARY EXAMINER

Note 11: Applicant makes two arguments. Each will be addressed in turn.

The first argument is that Watabe does not teach selecting the write strategy "according to a relationship between recording speed and bandwidth of the photodiode." Applicant argues that Watabe discloses the bandwidth of the "light-receiving module" may limit functionality, but that the "bandwidth is irrelevant in Watabe to selecting the write strategy." However, the claim only requires that a predefined NRZI pattern be selected according to a relationship between recording speed and a bandwidth of the photodiode. In paragraph 21, Watabe discloses a predefined NRZI pattern. Watabe discloses that this pattern provides accurate power control at quadruple speed with a photodetector bandwidth of several MHz. Since Watabe has chosen a pattern, and chosen it according to the expected result considering the speed and bandwidth, Watabe meets all elements disclosed in the claim.

The second argument is in reference to the Examiner's language in the rejection of the Office Action mailed July 12<sup>th</sup>, 2006, where the Examiner stated that the S&H circuit of Kenjo "must have" certain elements. The Applicant argued this inherency in their arguments filed September 29<sup>th</sup>, 2006, and is concerned because the Examiner did not specifically respond to it. However, due to the amendment filed the same date, the Examiner made a new rejection in the Office Action mailed December 8<sup>th</sup>, 2006, and so this argument is no longer relevant. Applicant appears to be maintaining it because the same reference -- Kenjo -- has been used as part of the new 35 USC 103 rejection, but the specific elements that the Examiner had stated were inherent to Kenjo in the first rejection are no longer relied upon in this 35 USC 103 rejection.

Along with this argument Applicant appears to imply that the cited prior art does not disclose the language of claim 4: "wherein the at least one sample and hold circuit is connected to the low-pass filter and to the sample and hold signal generator..." However, as noted in the rejection of the Office Action mailed December 8<sup>th</sup>, 2006, at least one sample and hold circuit is already present in Watabe, and Kenjo teaches the low-pass filter and sample and hold generator which is connected to it.

  
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PRIMARY EXAMINER